In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 32, Original

STATE OF MISSOURI,
Plaintiff,

vs.

STATE OF NEBRASKA,
Defendant.

STIPULATION FOR DISMISSAL
AND
MOTION TO DISMISS

Come now the parties hereto and stipulate and agree as to the following facts:

1. Motion for Leave to File a Complaint in the Supreme Court of the United States was filed by Norman H. Anderson, Attorney General, State of Missouri, in the October Term of Court, 1966, together with the Complaint herein.

2. On or about July 20, 1967, Clarence A. H. Meyer, Attorney General, State of Nebraska, filed a Brief in Opposition to said Motion and Complaint of the State of Missouri.

3. Jurisdiction of the above-styled cause was accepted by the Supreme Court of the United States on De-

cember 11, 1967, and the above cause is now pending in The Supreme Court of The United States.

4. Since the filing of the complaint in this matter, both parties have expended considerable efforts in an attempt to effect a legislative resolution of this dispute.

5. Both parties recognize that continued litigation is detrimental to their respective interests and desire a termination of this matter so as to minimize future conflict.

TO TERMINATE THIS DISPUTE, AND TO SECURE DISMISSAL OF THIS ACTION, THE STATES OF MISSOURI AND NEBRASKA FURTHER STIPULATE AND AGREE AS TO THE FOLLOWING:

6. The original boundary line of the State of Nebraska, contiguous to Missouri, as established by the Nebraska enabling act, was the middle of the channel of the Missouri River.

7. The original boundary line of the State of Missouri, contiguous to Nebraska, as established by the Platte Purchase Act, was the middle of the main channel of the Missouri River.

8. The flow of the Missouri River has changed its course and the main channel of said river has changed its position in many areas along said common territorial boundary between said States by the forces of nature and construction by the U. S. Army Corps of Engineers.

9. Disputes between the State of Missouri and the State of Nebraska, their political and governmental subdivisions, citizens and other persons have arisen and now exist with respect to the location of the true boundary between the States.

10. There has for many years existed as between the State of Missouri and the State of Nebraska a question as to the location of the true and correct boundary line between said States. In some areas land is taxed or may be taxed by both States while in other areas land may be untaxed by either State, and confusion exists as to which State's courts have jurisdiction over some lands.

11. The Missouri River is now relatively stabilized by work done under the direction and the supervision of the United States Army Corps of Engineers and a boundary based upon a stabilized main channel of the Missouri River would be, if the works are properly maintained, as near as can be anticipated at this time, fixed and permanent.

12. It is to the best interest of the States of Missouri and Nebraska, their political and governmental subdivisions and their citizens, to locate and determine an identifiable boundary line between the States, avoid litigation and multiple exercises of sovereignty and jurisdiction, encourage the optimum beneficial use of the river, its facilities and its waters, and remove all causes of controversy between said States with respect to the location of the boundary between the States.

13. The States are not recognizing and do not desire to recognize the identifiable boundary line described herein as the true and correct former boundary line between the States, except to recognize the historical fact that the United States Congress, in creating the party states, determined that their common boundary was the Missouri River.

14. Neither State is recognizing any presumptions that the river has moved gradually into the present designated channel location because of the numerous natural

cutoffs over the years and the construction and stabilization work done by the Corps of Engineers, which included the dredging of canals and constructions of dikes and revetments, moving the river around and across islands, bar areas, and lands.

15. The States recognize that the United States Army Corps of Engineers has dug numerous canals leaving lands formerly on one side of the river isolated on the other side and the States recognize there may have been many natural cutoffs of the Missouri River prior to the stabilization work by the Corps of Engineers.

16. As to lands along or in proximity to the Missouri River, the States desire not to disturb private titles or claims which may have been established by private individuals by recognizing or locating any specific areas as belonging to or being within one State or the other, but, rather, the States desire to leave any question of private titles to such parties involved.

17. The parties recognize that the present main navigable channel of the Missouri River, as it exists within the designated channel as stabilized by the United States Army Corps of Engineers, is or may be different from a line parallel and equidistant from the present banks of the Missouri River.

18. It is the principal purpose of the party States in entering into this stipulation to recommend an identifiable boundary between the State of Missouri and the State of Nebraska for the entire distance thereof, without interfering with or otherwise affecting private rights or titles to property, and the party States declare that further compelling purposes herein are:

(A) To create a friendly and harmonious interstate relationship;

(B) To minimize multiple exercise of sovereignty and jurisdiction, including matters of taxation, judicial and police powers and exercise of administrative authority;

(C) To encourage settlement and disposition of pending legislation and criminal proceedings and avoid or minimize future disputes and litigation;

(D) To promote economic and political stability;

(E) To encourage the optimum mutual beneficial use of the Missouri River, its waters and its facilities;

(F) To establish an atmosphere for settlement of future disputes;

(G) To express the intent and policy of the States that the common boundary should be established within the confines of a stabilized main channel of the Missouri River, except at McKissick's Island as determined and described by the Supreme Court of the United States in the case of *Missouri* v. *Nebraska*, 196 U.S. 23, and 197 U.S. 577, and except at places of avulsion, previously occurred or hereafter occurring, and, that both States shall continue to have access to and the use of the waters of the river;

(H) To recognize the fact that the judicial process no longer lends itself to an economically feasible solution of political disputes between the peoples of the two States.

19. No future alteration of the boundaries of the States of Missouri and Nebraska, resulting from a change

in a stabilized main channel of the Missouri River caused by natural processes, should disturb pre-existing private rights or claims.

20. Nothing in this stipulation should be deemed or construed to affect any litigation in any of the courts located in either of the States of Missouri or Nebraska.

21. The public record of real estate titles, mortgages and other liens in the State of Missouri to any lands, along or in proximity to the Missouri River, should continue to be accepted as evidence of record title to such lands by the courts of the State of Nebraska.

22. The public record of real estate titles, mortgages and other liens in the State of Nebraska to any lands, along or in proximity to the Missouri River should continue to be accepted as evidence of record title to such lands by the courts of the State of Missouri.

23. As to such lands, the recording officials of the counties of each state should accept for filing documents of title using legal descriptions derived from the land descriptions of the other state. The acceptance of such documents for filing should have no bearing upon the legal effect or sufficiency thereof.

24. Neither state should levy taxes on lands lying outside of its boundary line established pursuant to the principal purposes stated herein.

25. This stipulation for dismissal should not deprive any riparian owner of such riparian owner's rights based upon riparian law, and the recommended boundary line between the states should not in any way be deemed to change or affect the boundary line of riparian owners along the Missouri River as between such owners and es-

tablishment of the recommended boundary line should not operate to limit such riparian owner's rights to accretions across such recommended boundary line.

26. No private individual or entity claiming title to lands along the Missouri River should be prejudiced hereby and any claims or possessory rights necessary to establish adverse possession should not be terminated or limited by the fact that the jurisdiction over such lands may be affected by this stipulation. Neither State should assert any claim of title to abandoned beds of the Missouri River, lands along the Missouri River, or the bed of the Missouri River based upon any doctrine of State ownership of the beds or abandoned beds of navigable waters, as against any land owners or claimants claiming interest in real estate arising out of titles, muniments of title, or exercises of jurisdiction of or from the other state.

27. It is intended by the parties that the terms of this stipulation should be binding upon the party States, their political and governmental subdivisions, and the officers and agents thereof.

28. The parties have each deposited the sum of $2,500.00 with the Special Master, the late Gilbert H. Jertberg, for the payment of the costs of this action.

29. It is intended by the parties that any remaining funds previously deposited with the Special Master should be sent to the Clerk of the United States Supreme Court and remitted, after the deduction of further costs, if any, to the Attorneys General of the respective States in equal amounts.

30. For the reasons stated hereinabove it is respectfully moved by the parties hereto that the Petition of the Plaintiff be dismissed.

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